

# 20

## **DEFINITIONS**

### **20.01 Purpose**

In the application of this ordinance, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include the past and future.
- B. Words used in the singular number shall include the plural number and the plural, the singular.
- C. The word “shall” is mandatory and not discretionary.
- D. The word “may” is permissive.
- E. The words “used” or “occupied” shall include the words “intended,” “designed,” or “arranged to be used or occupied.”
- F. The word “lot” shall include the words “plot,” “parcel,” or “tract.”
- G. The word “person” shall include a “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an “individual.”
- H. The word “building” shall include the words “structure” and “premises.”
- I. Any word not herein defined shall be as defined in any recognized standard English dictionary.

### **20.02 Definitions**

**ABUTTING** - Abutting shall mean adjacent or contiguous and shall include property separated by an alley. The term “abutting” implies a closer proximity than the term “adjacent.”

**ACCESSORY USE OR STRUCTURE** - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ACTIVITY - Any application for a permit under this ordinance or any development or use encompassed within the jurisdiction of this Ordinance.

ADULT ARCADE - Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.

ADULT BOOKSTORE OR VIDEO STORE - A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:

1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.
2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.

ADULT CABARET - Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or seminudity.
2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

ADULT MOTION PICTURE THEATER - A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.

ADULT ORIENTED BUSINESS - Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.

ADULT SERVICE - Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.

**ADULT THEATER** - A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.

**AGRICULTURE** - The production, keeping, or maintenance, for sale, lease or personal use, of plants and land useful to man, including but not limited to: forages sod crops; grains and seed crops; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**AIRPORT** - A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers, including Heliports.

**ALLEY** - An alley is a public right-of-way which affords only a secondary means of access to abutting property.

**ANTENNA** - Any device that radiates or captures electromagnetic wave signals, including digital voice and data signals, analog voice and data signals, video signals or microwave signals, and is mounted on a structure that allows freedom from obstruction for the radiation and capture of the electromagnetic signals.

**AQUIFER** - A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

**ARCADE** - A building or structure, open to the public, which contains coin operated games and similar entertainment and amusement devices, as the primary use or with five (5) or more games as an accessory use.

**ASSISTED-LIVING CENTER AND CONGREGATE CARE FACILITY** - A licensed health care facility to provide 24-hour supervision of the frail elderly that provide rooms, meals, personal care, and supervision of self-administrated medication. They may also provide services, such as recreational activities, financial services, and transportation.

**AUTOMOBILE STORAGE YARD** - The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.

**AWNING/CANOPY** - A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**BED AND BREAKFAST ESTABLISHMENT** - A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.

**BOARD OF ADJUSTMENT** - Public and quasi judicial agency charged with duty to hear and determine zoning appeals.

**BOARDINGHOUSE** - A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

**BROADCAST TOWER** - Shall mean a structure, not including offices or studio, for the transmission of radio or television broadcast communications.

**BUILDABLE AREA** - The three-dimensional space within which a building is permitted to be built on a lot and which is defined by maximum height regulations and yard setback regulations.

**BUILDING** - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is constructed or erected on the ground or attached to the ground with a fixed location on the ground.

**BUILDING, DETACHED** - A building surrounded by open space on the same lot.

**BUILDING, HEIGHT** - The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest roof, or to the average height of the highest gable of a pitched, hipped, or shed roof. The measurement shall be taken from the average elevation of the finished grade within ten feet of the structure.

**BUILDING LINE** - A line parallel to the curb line touching that part of a building or parking lot closest to the street.

**BUILDING PERMIT** - A document signed by the Zoning Administrator of the City of Lennox as a condition precedent to the commencement of a use or the erection, construction, re-construction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use, or building complies with the provisions of the municipal zoning ordinance or an authorized variance therefrom.

**BUILDING, RESIDENTIAL** - A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings;
2. Single-family attached dwellings;
3. Multiple-family dwellings (including apartment hotels);
4. Lodging houses; and
5. Fraternity and sorority houses.

**BUS PASSENGER TERMINAL** - A place where the transfer of people between modes of transportation takes place.

**BUS/TRUCK TERMINAL** - An area and building where buses, trucks, and cargo is stored; where loading and unloading is carried on regularly; and where minor maintenance of these types of vehicles is performed.

**BUS/TRUCK WASH** - Any building or portions thereof used for washing buses and/or trucks.

**CAMPGROUND, TRAVEL TRAILER PARKING AREA** - Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters.

**CARPORT** - A space or structure serving same or similar purpose as a garage, having a roof, but two or more sides are open or do not have a permanent wall.

**CAR WASH** - Any building or portions thereof used for washing automobiles.

**CERTIFICATE OF OCCUPANCY** - A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

**CHANGE OF USE** - Substitution of one thing for another specifically regarding use of land or use of a building.

**CHURCH** - A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

**CITY** - Means City of Lennox, South Dakota.

**CITY COUNCIL** - Means Board of City Council Members, Lennox, South Dakota.

**CLINIC** - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, optometrists, social workers, etc., and where patients are not usually lodged overnight.

**CLUB** - Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

**COMMERCIAL PARKING LOT/FACILITY** - An approved open or enclosed off-street parking area or structure where licensed and operable motor vehicles are temporarily stored for a fee.

**COMMISSION** - Means City Planning Commission of Lennox, South Dakota.

COMPREHENSIVE PLAN - The adopted long-range plan intended to guide the growth and development of the community and region, including analysis, recommendations and proposals of the community's population, economy, housing, transportation, community facilities, and land use.

CONDITIONAL USE PERMIT - A permit issued by the Planning Commission stating that a Conditional Use complies with the conditions and standards set forth in this Ordinance.

CONTRACTOR'S SHOP AND STORAGE YARD - Use of land or buildings for storage and preparation of materials used by that same individuals in conducting the business of construction and repair work, generally completed at some other on-site location.

CONTAMINANT - Any "regulated substance," as defined by SDCL 34A-12-1(8), as in effect on the date of passage of this ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.

CONVENT AND MONASTERY - A place of residence for bona fide members of a religious order who carry on religious, medical, educational, or charitable work in adjacent institutions.

CURB LINE - The outside lines of the pavement or roadway.

DAY CARE - The providing of care and supervision of a child or children/adults as a supplement to regular parental/home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

DAY CARE, CENTER - Is normally in a facility used only for providing day care, nursery, or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of usable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per person outdoors.

DAY CARE, FAMILY - Care is done in a family home, and the number of persons cared for is limited to a maximum of six (6) adults or six (6) children under fourteen. Included in that count are the providers' own children six (6) years and under. See (Home Occupation).

DAY CARE, GROUP - Is normally in a family home. The number of persons cared for is seven (7) to twelve (12) adults or children under the age of fourteen including the provider's own children six (6) years and under.

DENSITY - The number of families, individuals, dwelling units, or housing structures per unit of land.

DEVELOPMENT - The carrying out of any construction, reconstruction, alteration of surface, structure, change or land use or intensity of use, and including but not limited to the deposit of

refuse, solid or liquid waste, any mining or drilling operation, or work relating to the creation of a road, street, or parking area.

**DISTILLATION OF PRODUCTS** - A building or premises used for the purification and concentration of a substance by volatilization or evaporation and subsequent condensation.

**DISTRICT** - A part, zone, or geographic area of the City of Lennox within which certain zoning or development regulations apply.

**DRIVE-UP SERVICE WINDOW/DEVICE** - An establishment which accommodates the patron's motor vehicles, from which the occupants may obtain or receive a service or obtain a product through a service window or automated device.

**DWELLING** - A building, or portion, thereof, used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses.

**DWELLING, ATTACHED** - A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

**DWELLING, MULTIPLE-FAMILY** - A building, or portion thereof, containing three (3) or more dwelling units.

**DWELLING, SINGLE FAMILY DETACHED** - A dwelling which is designed for and occupied by not more than one family and is surrounded by yards and is not attached to any other dwelling by any means.

**DWELLING, SINGLE FAMILY FARM** - Single family dwelling located on a farm which is used or intended for use by the farm's owner or relative of the owner or a person employed thereon.

**DWELLING, TOWNHOUSE** - One of a group or row of two or more single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

**DWELLING UNIT** - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**ELECTRICAL SUBSTATION** - A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An

electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

**EXISTING ANTENNA SUPPORT STRUCTURE** - Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples and light poles.

**FAMILY** - One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three adults who are unrelated by blood or law. In addition to the persons actually related by blood or law, the following persons shall be considered related by blood or law for the purposes of this title:

1. A person residing with the family for the purpose of adoption;
2. Not more than six persons under eighteen years of age, residing in a foster home licensed or approved by a governmental agency;
3. Not more than four persons eighteen years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency;
4. Any persons living with the family at the direction of a court; and
5. Twenty four hour supervised living of persons with physical or mental disabilities, but not including group homes for drug and alcohol rehabilitation or halfway houses for persons adjudicated by a court. Such residential facilities shall be licensed by the State of South Dakota and proof of such licensing shall be required prior to zoning certificate approval.

**FARM** - A parcel of land used for agricultural purposes, with a minimum of 10 acres in size.

**FARM IMPLEMENT DEALER** - The use of any building or land area for the display and sale of new and used farm implements, including any warranty repair work and other repair service conducted as an accessory use.

**FARMSTEAD** - The area of a farm in which the out buildings sit and is normally protected by a grove(s) and not used for crops or grazing.

**FARM STORE/FEED STORE** - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agri-chemicals.

**FENCE** - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**FLOOR AREA** - The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

**FREESTANDING SIGN (Ground Sign)** - A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.

**FRONTAGE** - That side of a lot abutting on a street; the front lot line.

**FRUIT/VEGETABLE CANNING AND PROCESSING** - A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

**GARAGE, PRIVATE** - A building or a portion of a building in which motor vehicles owned or leased by the occupants of the principal buildings are stored or kept.

**GARDEN CENTER** - Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

**GAS DISPENSING STATION** - Any building or premises which provides for the retail sale of gasoline or oil. No automobile repair work or sale of auto accessories, or testing may be done. Gasoline pumps and islands shall be located more than 12 feet from the nearest property line.

**GENERAL MANUFACTURING** - Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.

**GOLF COURSE** - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

**GRADE** - The average elevation of the land around a building.

**GRAIN TERMINAL** - A facility for the storage of agricultural grains.

**GREENHOUSE** - A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

**GROUP HOME** - A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

**GROUNDWATER** - Subsurface water that occurs in soils and geologic formations that are fully saturated.

**HAZARDOUS MATERIAL** - Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.

**HOME OCCUPATION** - A home occupation is any occupation carried on by a member of the immediate family residing on the premises, in accordance with Section 12.12 of these zoning regulations.

**HOSPITAL** - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**HOTEL, MOTEL, MOTOR COURT, MOTOR LODGE, OR TOURIST COURT** - Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transients.

**JUNKYARD** - Any lot, land, parcel or portion thereof, used for the storage, wrecking, dismantling, salvage, collection, processing, purchase, sale, or exchange of abandoned or discarded vehicles, goods, waste, and scrap materials, including but not limited to: two or more abandoned or inoperable motor vehicles, waste paper, rags, glass, tires, wood, lumber, appliances, machinery, or automotive and mechanical parts. A junkyard does not include operations entirely enclosed within buildings.

**KENNEL** - Any premise, or portion thereof, where dogs, cats, and other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

**LANDSCAPED AREA/LIVING GROUND COVER** - An area that is permanently devoted and maintained in blue grass/ creeping red fescue, herbaceous perennials, trees, shrubbery, and flowers.

**LIGHT MANUFACTURING** - Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

**LOADING SPACE** - A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

**LOT** - A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, which may include one (1) main building together with its accessory buildings, the open spaces

and parking spaces required by this ordinance, and having its principal frontage upon a street or upon an officially approved place.

LOT AREA - The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot which abuts a street on two opposite sides (not a corner lot).

LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT, INTERIOR - A lot other than a corner lot.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT OF RECORD - A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance.

MANUFACTURE OF: ACID, ALCOHOL, AMMONIA, ASPHALT, BLEACH, CEMENT, CHLORINE, DYESTUFFS, EXPLOSIVES, FERTILIZER, GLUE, GYPSUM, LIME, OILS, PLASTER OF PARIS, SHELLAC, SIZING, TURPENTINE OR YEAST, ETC. – Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is designed to be towed on its own chassis or be site delivered by alternative means. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards.

For manufactured homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required.

**MANUFACTURED HOME PARK, LICENSED** - A contiguous parcel of land operated as a unit, under the same ownership where six or more lots are rented for the temporary placement of manufactured homes, with all necessary facilities and services, and is licensed by the City of Lennox.

**MASSAGE ESTABLISHMENT** - An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:

1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.
2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.
3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.
4. Physical therapists licensed pursuant to SDCL Ch. 36-10.
5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.
6. Massage therapists licensed pursuant to SDCL Ch. 36-35.
7. Chiropractors licensed pursuant to SDCL Ch. 36-5.

**MORTUARY** - A place for the storage of human bodies prior to their burial or cremation.

**MOTEL** - A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists. See (Hotel/Motel).

**MOTOR VEHICLE** - Any vehicle which is designed to travel along the ground or in the water and shall include but not be limited to automobiles, vans, buses, motorbikes, trucks, trailers, go carts, golf carts, boats, ATVs, snowmobiles, and campers.

**MOTOR VEHICLE REPAIR** - Any building or premises involving the repair and/or painting of motor vehicle bodies or parts thereof and the rebuilding and/or overhauling of engines or transmissions.

**MOTOR VEHICLE, COMMERCIAL** - Any vehicle which has more than 16 square feet of signage or which is adapted, designed, equipped, and used to perform a specific commercial function and which does not meet the definition of Motor Vehicle, Personal/Passenger as defined herein.

**MOTOR VEHICLE, INOPERABLE** - A motor vehicle which is not in operating condition due to damage, removal, or inoperability of one or more tires and/or wheels, engine, or other essential parts, or which is not in operating condition due to damage or removal of equipment as required by the State of South Dakota for its lawful operation, or which does not have lawfully affixed thereto a valid state license plate, or which constitutes an immediate health, safety, fire or traffic hazard.

**MOTOR VEHICLE, PERSONAL/PASSENGER** - Any car, pickup-truck, or van which has no more than 16 square feet of signage and which is designed and facilitates personal/passenger travel and has not been externally altered with features not customary to personal usage.

**MOTOR VEHICLE, RECREATIONAL** - Any vehicle which is adapted, designed, and equipped to facilitate leisure time activities including but not limited to the following: ATVs, boats, motor bikes, snowmobiles, along with trailers to haul said vehicles; RVs and travel trailers.

**MOTOR VEHICLE SALES, DISPLAY, AND RENTAL** - The use of any building, land area, or premises, for the display, sale, or rental of new or used motor vehicles, and including any warranty repair work and other repair service conducted as an accessory use. The sale or display of inoperable motor vehicles is not allowable as part of this use category, see "JUNKYARD."

**MOTOR VEHICLE SERVICE STATION** - Any building or premises which provides for the retail sale of gasoline, oil, tires, batteries and accessories for motor vehicles and/or for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Motor vehicle repair work may be done at a motor vehicle service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is conducted. Gasoline pumps and gasoline pump islands shall be located more than 12 feet from the nearest property line.

**NEIGHBORHOOD UTILITY FACILITY** - Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings, facilities and above ground structures that exceed 120 square feet of area) necessary for conducting a service by a government or a public utility.

**NONCONFORMING USE** - A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this Ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.

**NONSTANDARD USE** - The category of nonconformance consisting of lots occupied by buildings or structures or uses that existed immediately prior to the effective date of this Ordinance that fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this Ordinance.

**NUDE MODEL STUDIO** - A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:

1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
2. A student must enroll at least three days in advance of a class in order to participate.
3. No more than one nude or seminude model is on the premises at any time.

**NUDE, NUDITY OR STATE OF NUDITY** - Any of the following:

1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.
2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.

**NURSERY** - Land or greenhouses used to raise flowers, shrubs, and plants for sale. See (Greenhouse).

**NURSING HOME** - An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**OFFICE BUILDING** - A building designed for or used as the office of professional, commercial, industrial, financial, religious, institutional, public, or semipublic persons or organizations.

Broadcast stations, offices, and studios shall be considered to be office buildings; broadcast towers as defined in this title shall not be so considered.

OFF-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption off the premises where sold.

ON-SALE ALCOHOLIC BEVERAGE ESTABLISHMENT - Any use which has been licensed to sell alcoholic beverages for consumption upon the premises where sold, except for special one-day liquor or special malt beverage licenses.

OUTDOOR STORAGE - The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of junkyard as defined herein.

PARKING SPACE - A hard-surfaced area, enclosed or unenclosed, sufficient in size to park one motor vehicle. A parking space must be provided an unobstructed means of access, and all spaces shall meet the minimum criteria as prescribed by City Ordinance.

PARTY WALL - A common shared wall between two separate structures, buildings, or dwelling units.

PERMANENT FOUNDATION - A continuous foundation around the perimeter of a structure, which, at bottom, extends no less than 48 inches below the surface of the ground.

PERMITTED USES - Any permissive or conditional uses allowed in a zoning district subject to the restrictions applicable to that zoning district.

PERSONAL SERVICES - Establishments primarily engaged in providing services involving the care of a person or their apparel. Including, but not limited to: laundry or dry cleaning, receiving station; garment services; coin-operated laundries; photographic and art studios; beauty shops; barber shops; shoe repair; reducing salons and health clubs; clothing rental.

PLACE OF WORSHIP - A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features.

PLANNING COMMISSION - The duly designated planning board of the municipality responsible for reviewing and approving applications for development and preparation of master plans and ordinances.

PRINCIPAL BUILDING - A building in which is conducted the primary or predominant use of the lot on which it is located.

PRINCIPAL USE - The primary or predominant use or building of any lot.

PRINTING PLANT - A commercial printing operation which makes reproductions involving the use of a printing press and the making of photographic plates.

PRIVATE CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

PROJECTING SIGN - A sign other than a wall sign which is attached to and projects from a structure or building face.

PROPERTY LINE - See (Lot Line).

PUBLIC UTILITY FACILITIES - See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings, structures, and facilities that exceed 120 square feet in area are allowable.

QUARRY - A surface excavation used for the removal of rock, stone, sand, gravel, and fill dirt for sale or use off-site and includes sifting, crushing, and washing and bagging.

RECREATIONAL FACILITY - A facility that is located on or next to the ground, including but not limited to: swimming pools, putting greens, volleyball, tennis and basketball courts; batting, pitching soccer and golf cages and nets; hockey and ice rinks, skate board ramps, trampolines, portable flooring for aerobics, dance, and weight lifting.

RECREATION FACILITY, COMMERCIAL - A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, either active or passive and operated as a business and open to the public for a fee.

RECYCLABLE MATERIALS - Materials or products that may be readily separated from the solid waste stream and may be used or reused as a substitute for raw materials or other items, including but not limited to, aluminum, paper, glass, steel, and plastic.

RECYCLING COLLECTION FACILITY - An established facility where recyclable materials are collected for shipment off site, with no processing such as grinding or crushing of the materials. Fully enclosed automated self-service aluminum collection machines not more than 750 square feet are considered recycling collection facilities regardless of whether they contain a crusher or grinder. Facilities which handle recyclable hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RECYCLING PROCESSING FACILITY - An established facility where recyclable materials are collected and/or processed for shipment off site, including processing operations such as grinding or crushing of the materials. No on-site sales of materials, nor salvage-type automobiles may be processed at these types of facilities. Facilities which handle recyclable

hazardous materials, or waste petroleum products as a primary or substantial portion of their business are not included.

RESIDENCE - A permanent dwelling place.

RETAIL SERVICES AND TRADE - Establishments engaged in selling products, goods, or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services but does not include on-sale or off-sale alcoholic beverage establishments.

RESTAURANT - An establishment where food and drink is prepared, served, and consumed primarily within the principal use.

ROOF SIGN - Any sign erected upon, against, or directly above a roof or on top of the parapet of a building.

ROOMING/BOARDING HOUSE - See (Boarding House).

SCHOOL, ELEMENTARY OR SECONDARY (HIGH SCHOOL) - Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in elementary or secondary (high school) education.

SEMINUDE - A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

SETBACK/SETBACK LINE - That line that is the required minimum distance from any lot line that establishes the area within which the principal use must be erected or placed.

SHALLOW/SURFICIAL AQUIFER - An aquifer in which the permeable media (sand and gravel) starts near the land surface immediately below the topsoil. The shallow aquifer is further defined as an aquifer within fifty (50) feet or less below the land surface within fifteen (15) feet or less of continuous overlying, extremely low permeability material, such as clay, till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability material for purposes of this ordinance; or, the aquifer is greater than fifty (50) feet but less than one hundred (100) feet below the land surface with thirty (30) feet or less of continuous overlying low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected

images. This definition does not include signs not exceeding 12 square feet for advertising the sale or lease of real estate, national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.

**SIGN AREA** - The area of the largest single face of the sign within a perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

**SIGN FACE (DISPLAY SURFACE)** - The entire area of sign on which copy could be placed. See (“Sign Area”).

**SIGN (OFF PREMISE)** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN (ON PREMISE)** - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

**SIGN STRUCTURE** - Any structure which supports, has supported, or is capable of supporting a sign.

**SIGN, WALL** - A sign attached to or erected against a wall of a building and projecting no more than twelve (12) inches with the face in a parallel plane to the plane of the building wall.

**SLAUGHTERHOUSE** - A facility for the slaughtering and processing of animals and the refining of their by-products.

**SOLID WASTE TRANSFER FACILITY** - A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

**SPECIFIED ANATOMICAL AREAS** - Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
2. Male genitals in a discernibly turgid state even if completely and opaquely covered.

**SPECIFIC SEXUAL ACTIVITIES** - Any of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.
3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.
4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.

**STANDING SEAM METAL ROOF** - A type of roofing material characterized by long flat metal panels or sheets that are crimped together along their vertical edges.

**STORY** - Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six (6) feet above grade as defined herein for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement cellar or unused under-floor space shall be considered a story.

**STREET** - A public way which affords the principal means of access to abutting property.

**STREET, ARTERIAL** - A principal traffic artery, more or less continuous across the city, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

**STREET, COLLECTOR** - A street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.

**STREET, LOCAL** - A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

**STRUCTURAL ALTERATION** - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any complete rebuilding of the roof or the exterior walls.

**STRUCTURE** - Anything constructed or erected on the ground or attached to the ground with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures, include buildings, walls, fences, signs, docks, dams, manufactured homes, and sheds.

**TANK FARM** - An open air facility containing a number of above-ground, large containers for the bulk storage in liquid form of petroleum products.

TELECOMMUNICATIONS TOWER - A self-supporting lattice, guyed-lattice, or monopole structure which supports wireless communications facilities. The term includes new and existing towers that are used for services such as microwave, common carrier, cellular telephone, personal communication services, two-way radio paging, and other similar services. The term telecommunications tower does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission.

TEMPORARY SIGN - A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic, wallboard, or other like materials, and intended to be displayed for a limited period of time.

TELECOMMUNICATIONS TOWER HEIGHT - The vertical distance above grade to the highest point of the telecommunications tower, including the base pad and any antenna.

TELECOMMUNICATIONS TOWER SITE - The telecommunications tower site shall be the lot of record for which the telecommunications tower is located.

TRAVEL TRAILER - Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
2. Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
3. Motor-Home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as any integral part of a self-propelled vehicle.
4. Camping Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

TREE, REQUIRED - A tree which is required by this ordinance and meets or exceeds the minimum specifications according to tree type.

USE, ACCESSORY - See (Accessory Building or Use).

USE, PERMITTED - A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

USE, PRINCIPAL - A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use includes off-premise advertising.

WAREHOUSE - A building used primarily for the storage of goods and materials.

WASTE - Any garbage, refuse, sludge from a waste treatment plant, waste supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1986.

WHOLESALE MERCHANDISING /WHOLESALE TRADE - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY CONVERSION SYSTEM (WECS) - An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnections, battery banks and the like in such a configuration as necessary to convert the power of wind into mechanical or electrical energy. WECS are also known as wind chargers, windmills or wind turbines.

WIRELESS COMMUNICATIONS FACILITIES - Any cables, wires, lines, wave guides, antennas, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a telecommunications tower or antenna support structure.

YARD, FRONT - A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

YARD, REAR - A yard extending a full width of the lot between a principal building and the rear lot line.

YARD, REQUIRED FRONT - The required front yard shall extend across the front of a lot between the said property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.

YARD LINE - See (Building Line).

YARD, REQUIRED REAR - The required rear yard shall extend across the rear of a lot between the said property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.

**YARD, REQUIRED** - Shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this title.

**YARD, REQUIRED SIDE** - The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.

**YARD, SIDE** - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

**ZONE** - A specifically delineated area or district of the City of Lennox within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.